

DISTRICT OF COLUMBIA
DOH Office of Adjudication and Hearings
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DISTRICT OF COLUMBIA
DEPARTMENT OF HEALTH

Petitioner,

v.

SANTEE, INC.

Respondent

Case Nos.: I-00-10275

I-00-10276

I-00-10288

I-00-10289

FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL ORDER

I. Introduction

By Notices of Infraction served on June 28, 2000, the Government charged Respondent Santee, Inc. ("Santee") with violating 20 DCMR 900.1 in four instances. Section 900.1 prohibits, with certain exceptions, motor vehicles from idling their engines for more than three minutes while parked, stopped or standing. The Notices of Infraction alleged that three violations occurred on June 26, 2000 in the 1300 Block of ½ Street S.E., and that the remaining violation occurred that same day in the Unit Block of N Street S.E., around the corner from the location of the other violations. The Government sought a \$500.00 fine for each of the four violations.

On July 11, 2000, Respondent filed a timely plea of Deny, and a request for a hearing. On July 12, 2000, this administrative court issued an order setting a hearing date of August 22, 2000. By order issued July 25, 2000, the hearing was rescheduled to August 29, 2000. The parties appeared for the hearing on that date. Neil Williams, an inspector from the Department of Health, represented the Government. With leave of

this administrative court, Ron Torrance appeared via telephone on behalf of Respondent Santee.

Based upon the testimony at the hearing, my evaluation of the credibility of the witnesses and the entire record in this matter, I now make the following findings of facts and conclusions of law.

II. Findings of Fact

1. On June 26, 2000, Mr. Williams observed three trucks parked in the 1300 Block of ½ Street, S.E. with their engines idling. Two of them idled their engines from 12:28 P.M. to 12:36 P.M., and the remaining truck idled its engine from 12:28 P.M. to 12:33 P.M.
2. On the same day, Mr. Williams observed another truck parked in the Unit Block of N Street, S.E. with its engine idling. That truck idled its engine from 12:40 P.M. to 12:51 P.M.
3. Respondent Santee owns the trucks in question.
4. Respondent admitted that the drivers of all four trucks violated § 900.1, but argued that the inspector should have warned the drivers and told them to turn off their engines before issuing the Notices of Infraction.

III. Conclusions of Law

1. To prove a violation of 20 DCMR 900.1, the Government must establish that the engine of a motor vehicle was idling for more than three minutes while it was parked, stopped or standing.
2. The evidence establishes that four of Respondent's trucks violated 20 DCMR 900.1 on June 26, 2000.
3. Although the inspector has discretion to warn violators instead of issuing a Notice of Infraction, there is no legal requirement that he do so. Therefore, Respondent has not introduced evidence that excuses the violation or mitigates the amount of the fine.

Based on the foregoing findings of fact and conclusions of law, the fine sought by the Government is appropriate. Accordingly, I will impose a \$500.00 fine for each of the four infractions, for a total fine of \$2,000.00. Therefore, it is hereby, this _____ day of _____, 2000:

ORDERED, that Respondent shall cause to be remitted a single payment totaling **TWO THOUSAND DOLLARS (\$2,000.00)** in accordance with the attached instructions within twenty (20) calendar days of the date of mailing of this Order (fifteen (15) calendar days plus five (5) days for service by mail pursuant to D.C. Code § 6-2715). A failure to comply with the attached payment instructions and to remit a payment within the time specified will authorize the imposition of additional sanctions,

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including the suspension of Respondent's license or permit pursuant to D.C. Code § 6-2713(f).

/s/ **8/31/00**

John P. Dean
Administrative Judge